



## City of Seattle

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**Department of Planning and Development**  
D. M. Sugimura, Director

### **CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 3012902  
**Applicant Name:** Richard Connelly  
**Address of Proposal:** 601 S. Myrtle St.

#### **SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Application to grade 3,100 cubic yards of material under wharf. Project includes demolition of south timber wharf (300 linear feet), rubble rip rap and three timber dolphins and then construction of concrete and steel replacement wharf and installation of one steel dolphin. At north wharf, project includes removal of fender piles (137 linear feet) and replacement with steel pile fender system.

The following approvals are required:

**Shoreline Substantial Development Permit** - to allow a replacement of an existing wharf and dolphins in an Urban Industrial (UI) shoreline environment.  
(Section 23.60.840, Seattle Municipal Code)

**SEPA - Environmental Determination** - (SMC Chapter 25.05)

**SEPA DETERMINATION:** ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition or  
involving another agency with jurisdiction.

#### **BACKGROUND DATA**

##### Site and Vicinity Description

The subject site is a waterfront lot located at 601 South Myrtle Street adjacent to the Duwamish Waterway. The property is zoned Industrial General-1 (IG1 U-85') and the shoreline portion of the site is within the Urban Industrial (UI) shoreline environment. The property is currently used

as a metal salvage and recycling facility. The site is used for receiving, processing, storing and shipping scrap metal. Upland structures include scrap metal processing buildings, storage buildings, an equipment maintenance building and a building containing administrative offices. Overwater structures consist of nine wood and/or steel pile dolphins and two pile-supported timber wharves. The north wharf is approximately 137 feet long by 57 feet wide, with a shoreline bulkhead consisting of concrete piles stacked on their sides. The south wharf is approximately 340 feet long by 33 feet wide, with a shoreline bulkhead of steel sheet piles. Sloped banks under the wharves are surfaced with rock and rubble rip rap.

### Proposal Description

The applicant proposes to do the following actions:

- 1) Demolish and remove the deteriorated south timber wharf;
- 2) Remove rubble rip rap and re-grade shoreline bank under wharf. Place natural rock rip rap on the bank and habitat mix pursuant to WDFW specifications;
- 3) Construct replacement wharf using steel piles with pre-case concrete caps and deck structure;
- 4) Demolish and remove two deteriorated timber dolphins and one single-pile steel dolphin;
- 5) Construct a steel pile replacement dolphin;
- 6) Remove existing wood fender piles at north wharf and replace with four 3-pile groups of steel fenders.
- 7) Revegetate area at south end of project adjacent to shoreline.

### Public Comment

The public comment period ended on March 16, 2012. One comment was received.

## **ANALYSIS — SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: A substantial development permit shall be issued only when the development proposed is consistent with:

- A. The policies and procedures of Chapter 90.58 RCW;*
- B. The regulations of this Chapter; and*
- C. The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

## **THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW**

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering

all reasonable and appropriate uses. This policy contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60.

Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal is subject to the Shoreline Policies of SMC 23.60.004 because the site is located within the shoreline district and the cost of the project exceeds \$5,780. The proposed development has been designed to ensure minimum impact to the public health, land and waters of the state, and their aquatic life. The location of the proposed work on the shoreland will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, the subject application is consistent with the procedures outlined in RCW 90.58.

#### **A. THE REGULATIONS OF CHAPTER 23.60**

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program." In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special requirements use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064).

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

#### **SMC 23.60.004 - Shoreline Policies**

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation

contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. An economic objective for the shoreline is to “Encourage economic activity and development of water-dependent uses by supporting the retention and expansion of existing water-dependent businesses and planning for the creation of new developments in areas now dedicated to such use.” (Please refer to Economic Development Goals, Policy LUG51). An area objective for this portion of the Duwamish Waterway is to “encouraging industrial and port uses in this area, where such uses are already concentrated, while also protecting migratory fish routes.” (Please refer to Area Objectives for Seattle’s Shorelines, Policy LU269 1d). The purpose of the Urban Industrial (UI) environment as set forth in Section 23.60.220.C.11 is to “provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Views shall be secondary to industrial development and public access shall be provided mainly on public lands or in conformance with an area-wide Public Access Plan”.

The metal salvage and recycling use at this location, which is not changing as part of this proposal, is a water-related recycling use and is allowed in the UI Shoreline Environment. The proposed replacement wharf serves this use and therefore is supported by both the purpose of the UI shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan.

#### Development Standards

The proposal is permitted outright in SMC 23.60.840 governing the UI shoreline environment and is therefore subject to:

1. *the general development standards for all shoreline environments (SMC 23.60.152);*
2. *the development standards for uses in the UI environment (SMC 23.60.870); as well as*
3. *the development standards for General Industrial zones (SMC 23.50).*

#### 1. General Development Standards for all Shoreline Environments (SMC 23.60.152)

*All uses and developments shall be subject to the following general development standards:*

- A. *The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best Management Practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.*
- B. *Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.*
- C. *Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels.*

- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.*
- E. All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers.*
- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.*
- G. All shoreline developments and uses shall control erosion during project construction and operation.*
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.*
- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.*
- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.*
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.*
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.*
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.*
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.*
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.*

- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.*

The Stormwater Code (SMC 22.800) places considerable emphasis on protecting water quality. This generally takes the form of best management practices being required on building permits. The applicant has provided a construction best management practices plan sheet (Sheet S 1). These measures will be adequate to ensure protection of the shoreline from the construction that is proposed, and will be required to be implemented during construction as a condition of approval.

The project will result in a reduction in overwater coverage at this location (approximately 1600 square feet) that will allow for increased natural light in the nearshore environment and reduction in habitat for predators on juvenile salmonids, which will benefit a number of aquatic species that utilize this area including migrating salmonids. The project will also result in removal of 531 treated wood piles, which will benefit the nearshore environment.

The applicant is proposing to place an overlay of habitat mix material under the replaced wharf pursuant to WDFW specifications for fish use (Sheet S 2.0). In addition, the applicant is proposing mitigation in the form of a shoreline vegetation enhancement plan (Sheets L1.0 and L2.0). The vegetation enhancement will be required to be implemented for the life of the project as a condition of approval.

2. *Development Standards for UI Shoreline Environments (SMC 23.60.870)*

The development standards set forth in the Urban Industrial (UI) Shoreline Environment relate to critical habitat protection, height, lot coverage, view corridors, setbacks, water-related uses on waterfront lots and public access. The proposal conforms to all applicable development standards for the UI environment

*SMC 23.60.840 – Uses Permitted Outright in the UI Environment*

The proposal does not change the current use of the property and is consistent with allowed uses in the Urban Industrial environment.

3. *Development Standards for Industrial Zone Uses (SMC 23.50)*

The project proposal also conforms with applicable development standards of the underlying General Industrial 1 (IG1) zone.

**B. THE PROVISIONS OF CHAPTER 173-27 WAC**

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE,

consistency with the criteria and procedures of the SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

### Summary

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC and RCW and with the regulations of Chapter 23.60 of the Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the UI environment. It also conforms to the general development standards, as well as the requirements of the underlying zone.

The Director's authority under Seattle's Shoreline Master Program is to ensure that development proposals are consistent those policies and procedures, and conforms to specific development standards of the underlying zones. Having established that the proposal is consistent with the Seattle Shoreline Program, it is hereby conditionally approved.

### **DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED**.

### **CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

(Noted at the end of this document)

### **SEPA ANALYSIS**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.554D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: *“Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,”* subject to some limitations. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

### **Short-term Impacts**

The following temporary or construction-related impacts are expected: temporary increase in noise levels, increase in water turbidity levels, increased levels of fugitive dust and fumes from the construction equipment, disturbance of shorelines and displacement of some fish wildlife species due to increased water turbidity levels and increased noise from the construction

activities. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794). Although not significant, these impacts are adverse and, in some cases, mitigation may be warranted.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Seattle Noise Ordinance (construction noise); and State Air Quality Codes administered by the Puget Sound Clean Air Agency (air quality). In addition Federal and State regulations and permitting authority (Section 10 Permit, 404 Permit from the Army Corps and HPA permit from Washington Department of Fish and Wildlife) are effective to control short-term impacts on water quality. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project.

The proposed construction work will take place in the waters of the Duwamish Waterway and in the nearshore environment. With the proposed work taking place in and near water, there exists the potential for debris and other deleterious material to enter the water during this proposed work. Best management practices (BMPs) should be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work. A floating silt curtain should be deployed around the construction area to contain the turbid water and any debris that enters the water during construction. At a minimum the floating debris that enters the water during construction should be collected once per day. This material should be contained on site and then disposed of at the appropriate upland facility.

The applicant has proposed appropriate construction BMPs as shown on Sheet S 1.0 of the plans.

No further SEPA conditioning of potential short-term impacts appears to be warranted.

### Greenhouse Gas

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery; and the movement of vehicles — themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

### Long-term Impacts

No change to use of the facility is proposed as part of this project and no long-term or use-related impacts are anticipated as a result of approval of this proposal. The project will result in a reduction of overwater coverage of approximately 1,600 square feet as well as the removal of 531 treated timber piles, which will result in long-term habitat benefits in the nearshore environment at this location compared to existing conditions. The applicant also proposes to provide enhanced vegetation at the site as shown on Sheets L 1.0 and L 2.0, which will have long-term habitat benefits at this location.

No further conditioning pursuant to SEPA policies is warranted.



Greenhouse Gas

Operational activities, primarily vehicular trips associated with the project and the projects' energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

**DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 (2)(C).

**CONDITIONS – SEPA and SHORELINE**

During Construction

1. The proposed construction best management practices (BMPs), which include compliance with state and federal permitting requirements for protection of water and sediment quality standards, and other construction-related BMPs shown on Sheet S 1.0 shall be implemented during construction.

For the Life of the Project

2. The vegetation planted consistent with the vegetation enhancement plan shown on sheets L 1.0 and L 2.0 shall be maintained for the life of the project. No chemical herbicides, insecticides or pesticides shall be used in this area.

Signature: \_\_\_\_\_ (signature on file) Date: May 21, 2012  
Ben Perkowski, Senior Land Use Planner  
Department of Planning and Development

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